IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.
CRIMINAL APPICATION No.2531 of 2007

MISS.ASHITA B. CHOKSHI ..Applicant.

Vs.

THE STATE OF MAHARASHTRA ..Respondent.

Mr M. S. Mohite, Advocate for the Applicant.

Mr Rajesh More, A.P.P. for the Respondent No.1-State.

Mr M. K. Kochrekar, Advocate for the Complainant.

CORAM: V.C. DAGA, J.
DATED: 22nd August, 2007.

P.C.:-

1. Heard learned Advocate for the applicant, learned A.P.P.for the State and learned Advocate for the original complainant.

2. Perused application and the material available on record.

3. This application, under Section 438 of the Cr.P.C.,seeking anticipatory bail in C.R.No.86 of 2007 registered with D.B. Marg Police Station for the offence punishable under Sections 406, 420 read with Section 34 the Indian Penal Code, is filed by the applicant.

4. According to the applicant, her brother carries a jewellery business in the name and

style of "Star Jewellers" at Soni Chambers, Opera House, Mumbai. He is a sole proprietor of the said establishment.

5. According to the prosecution, the applicant and her brother have committed criminal breach of trust by dishonestly inducing the complainant to deliver diamonds worth Rs. 23,11,475/- in the month of September, 2006.

6. Perusal of the F.I.R. reveals that the brother of the applicant had some transactions in due course of business with the complainant with regard to the sale and purchase of diamonds, since her brother is dealing in the business of diamond jewellery. The case of the prosecution is that the complainant, in due course of business, has delivered certain diamonds against the receipts thereof to the brother of the applicant. However, her brother neither returned those diamonds nor did he make any payment thereof. He is, since then, absconding. F.I.R. has been lodged against the present applicant and her brother alleging that she has instigated her brother to commit the offence alleged.

7. Prima facie, considering the allegations made against the applicant, at this stage, there appears no connection of the applicant with the offence alleged. The applicant has furnished a telephone number of her brother who is allegedly staying in London. She had introduced her brother 3 or 4 years back to the complainant. Beyond this no positive role is being alleged against her.

8. In the above view of the matter, considering the applicant being woman, I am inclined to grant anticipatory bail to the applicant on following terms and conditions.

(a) In the event of arrest in C.R.No. 86 of 2007 applicant Ms Ashita B. Chokshi to be released on bail in the sum of Rs.25,000/-each with one surety to make up the said amount.

(b) that she should report to D.B.Marg Police Station once in a week i.e. on every Saturday between 3.00 to 5.00 p.m.

(c) the applicant shall not, directly or indirectly, make any inducement, threat or

promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(d) the applicant shall not pressurise witnesses and that she shall co-operate with the Investigating agency, if required.

(e). Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

9. This order of anticipatory bail shall remain in force till the filing of the charge sheet. It would be open for the applicant to apply for regular bail before the regular Court.

10. The application is allowed in the above terms.

(V.C. DAGA,J.)